



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004

Introduced 02/09/04, by Calvin L. Giles

SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.25g

from Ch. 122, par. 2-3.25g

Amends the School Code. Makes changes in provisions concerning the waiver of mandates within the School Code and administrative rules. Provides that waivers may not be requested pertaining to limitations on substitute teachers. Provides that affected exclusive collective bargaining agents shall be notified of the public hearing on the waiver application at least 10 (instead of 7) days prior to the hearing, and provides that they shall be allowed to participate in the public hearing. Provides that the school district shall provide written verification in the application that the exclusive bargaining agents have been notified. Provides that an approved waiver may remain in effect for a period not to exceed 3 (instead of 5) school years. Provides that a waiver from a mandated student subject area may be renewed only once and adds requirements concerning the renewal. Allows either house of the General Assembly to disapprove the State Board of Education's report on waivers by adoption of a resolution (instead of requiring both houses to adopt the resolution). Effective immediately.

LRB093 14831 NHT 40392 b

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by changing Section
5 2-3.25g as follows:

6 (105 ILCS 5/2-3.25g) (from Ch. 122, par. 2-3.25g)

7 Sec. 2-3.25g. Waiver or modification of mandates within the
8 School Code and administrative rules and regulations.
9 Notwithstanding any other provisions of this School Code or any
10 other law of this State to the contrary, school districts may
11 petition the State Board of Education for the waiver or
12 modification of the mandates of this School Code or of the
13 administrative rules and regulations promulgated by the State
14 Board of Education. Waivers or modifications of administrative
15 rules and regulations and modifications of mandates of this
16 School Code may be requested when a school district
17 demonstrates that it can address the intent of the rule or
18 mandate in a more effective, efficient, or economical manner or
19 when necessary to stimulate innovation or improve student
20 performance. Waivers of mandates of the School Code may be
21 requested when the waivers are necessary to stimulate
22 innovation or improve student performance. Waivers may not be
23 requested from laws, rules, and regulations pertaining to
24 special education, teacher certification, limitations on
25 substitute teachers under Section 21-9 of this Code, or teacher
26 tenure and seniority or from compliance with the No Child Left
27 Behind Act of 2001 (Public Law 107-110).

28 School districts, as a matter of inherent managerial
29 policy, and any Independent Authority established under
30 Section 2-3.25f may submit an application for a waiver or
31 modification authorized under this Section. Each application
32 must include a written request by the school district or

1 Independent Authority and must demonstrate that the intent of
2 the mandate can be addressed in a more effective, efficient, or
3 economical manner or be based upon a specific plan for improved
4 student performance and school improvement. Any district
5 requesting a waiver or modification for the reason that intent
6 of the mandate can be addressed in a more economical manner
7 shall include in the application a fiscal analysis showing
8 current expenditures on the mandate and projected savings
9 resulting from the waiver or modification. Applications and
10 plans developed by school districts must be approved by each
11 board of education following a public hearing on the
12 application and plan and the opportunity for the board to hear
13 testimony from educators directly involved in its
14 implementation, parents, and students. Such public hearing
15 shall be held on a day other than the day on which a regular
16 meeting of the board is held. The public hearing must be
17 preceded by at least one published notice occurring at least 7
18 days prior to the hearing in a newspaper of general circulation
19 within the school district that sets forth the time, date,
20 place, and general subject matter of the hearing. The school
21 district must notify in writing the affected exclusive
22 collective bargaining agent and those State legislators
23 representing the district holding the public hearing of the
24 district's intent to seek approval of a waiver or modification
25 and of the hearing to be held to take testimony from educators.
26 The affected exclusive collective bargaining agents shall be
27 notified of such public hearing at least 10 ~~7~~ days prior to the
28 date of the hearing and shall be allowed to attend and
29 participate in such public hearing. The school district shall
30 provide written verification in the application that the
31 exclusive bargaining agents have been notified. The district
32 shall attest to compliance with all of the notification and
33 procedural requirements set forth in this Section.

34 A request for a waiver or modification of administrative
35 rules and regulations or for a modification of mandates
36 contained in this School Code shall be submitted to the State

1 Board of Education within 15 days after approval by the board
2 of education. The application as submitted to the State Board
3 of Education shall include a description of the public hearing.
4 Following receipt of the request, the State Board shall have 45
5 days to review the application and request. If the State Board
6 fails to disapprove the application within that 45 day period,
7 the waiver or modification shall be deemed granted. The State
8 Board may disapprove any request if it is not based upon sound
9 educational practices, endangers the health or safety of
10 students or staff, compromises equal opportunities for
11 learning, or fails to demonstrate that the intent of the rule
12 or mandate can be addressed in a more effective, efficient, or
13 economical manner or have improved student performance as a
14 primary goal. Any request disapproved by the State Board may be
15 appealed to the General Assembly by the requesting school
16 district as outlined in this Section.

17 A request for a waiver from mandates contained in this
18 School Code shall be submitted to the State Board within 15
19 days after approval by the board of education. The application
20 as submitted to the State Board of Education shall include a
21 description of the public hearing. The description shall
22 include, but need not be limited to, the means of notice, the
23 number of people in attendance, the number of people who spoke
24 as proponents or opponents of the waiver, a brief description
25 of their comments, and whether there were any written
26 statements submitted. The State Board shall review the
27 applications and requests for completeness and shall compile
28 the requests in reports to be filed with the General Assembly.
29 The State Board shall file reports outlining the waivers
30 requested by school districts and appeals by school districts
31 of requests disapproved by the State Board with the Senate and
32 the House of Representatives before each May 1 and October 1.
33 The Senate or the House of Representatives ~~General Assembly~~ may
34 disapprove the report of the State Board in whole or in part
35 within 30 calendar days after that ~~each~~ house of the General
36 Assembly next convenes after the report is filed by adoption of

1 a resolution by a record vote of the majority of members
2 elected in that each house. If both the Senate and the House of
3 Representatives fail ~~General Assembly fails~~ to disapprove any
4 waiver request or appealed request within such 30 day period,
5 the waiver or modification shall be deemed granted. Any
6 resolution adopted by the Senate or the House of
7 Representatives ~~General Assembly~~ disapproving a report of the
8 State Board in whole or in part shall be binding on the State
9 Board.

10 An approved waiver or modification may remain in effect for
11 a period not to exceed 3 ~~5~~ school years and may be renewed upon
12 application by the school district. However, such waiver or
13 modification may be changed within that 3-year ~~5-year~~ period by
14 a local school district board following the procedure as set
15 forth in this Section for the initial waiver or modification
16 request. If neither the State Board of Education, the Senate,
17 nor the House of Representatives ~~General Assembly~~ disapproves,
18 the change is deemed granted.

19 An approved waiver or modification from a mandated student
20 subject area under Article 27 of this Code may be renewed only
21 once, and the school district must provide evidence of action
22 taken in an attempt to reincorporate the mandated student
23 subject area into the curriculum and the reasons for renewal.
24 By the end of the period of renewal, a plan must be submitted
25 to the State Board of Education that details how the mandated
26 student subject area will be reincorporated into the
27 curriculum.

28 On or before February 1, 1998, and each year thereafter,
29 the State Board of Education shall submit a cumulative report
30 summarizing all types of waiver mandates and modifications of
31 mandates granted by the State Board or the General Assembly.
32 The report shall identify the topic of the waiver along with
33 the number and percentage of school districts for which the
34 waiver has been granted. The report shall also include any
35 recommendations from the State Board regarding the repeal or
36 modification of waived mandates.

1 (Source: P.A. 93-470, eff. 8-8-03; 93-557, eff. 8-20-03;
2 revised 9-11-03.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.